

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4189

IN THE MATTER OF:

Served October 18, 1993

Application of MUSTANG TOURS,)
INC., for a Certificate of)
Authority -- Irregular Route)
Operations)

Case No. AP-93-30

Investigation of Unauthorized)
Operations of MUSTANG TOURS, INC.)

Case No. MP-93-42

By application filed October 14, 1993, Mustang Tours, Inc. (Mustang or applicant), a Maryland corporation, seeks a certificate of authority to transport passengers, together with baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District.

Mustang's application includes information regarding, among other things, its corporate status, facilities, proposed tariff, finances, and regulatory compliance record. The application is available for inspection at the office of the Commission during its regular business hours.

Mustang proposes to commence operations with one 47-passenger motor coach. Applicant's proposed tariff contains flat rates for airport transfer service and hourly rates with minimum charges for charter service. The transfer rate is available to and from Baltimore-Washington International Airport, and the charter rate is available to and from points outside the Metropolitan District. These locations are outside our jurisdiction. Further, the transfer rates and certain other charter rates are restricted to points "within a twenty-five mile radius of Washington, DC." This could be construed to include some points outside the Metropolitan District and exclude some points inside the Metropolitan District. Applicant will be directed to file an amended proposed tariff containing rates only for service confined to the Metropolitan District. Applicant may file a tariff for service to fewer than all points in the Metropolitan District but not to any points outside the Metropolitan District.

In determining whether to grant or deny an application for a certificate of authority, the Compact at Title II, Article XI, Section 7 requires that the Commission determine whether an applicant is fit, willing, and able to perform the transportation properly and conform to the provisions of the Compact and the Commission's rules, regulations, and requirements and whether the transportation is consistent with the public interest. Pursuant to Commission Rule No.6, this order and fulfillment of its requirements will provide notice of Mustang's application for a certificate of authority.

As the caption indicates, this application proceeding is being consolidated with an investigation proceeding concerning applicant's previously unauthorized operations. Consolidation is appropriate

where there is a common question of law or fact that is outcome determinative, such as the issue of an applicant's fitness.¹ Moreover, simultaneous resolution of these two proceedings should prove to be less disruptive and more efficient than denial of the application with leave to reapply.²

THEREFORE, IT IS ORDERED:

1. That Mustang Tours, Inc., shall publish once in a newspaper of general circulation in the Metropolitan District, no later than Friday, October 29, 1993, notice in the form prescribed by the staff of the Commission.

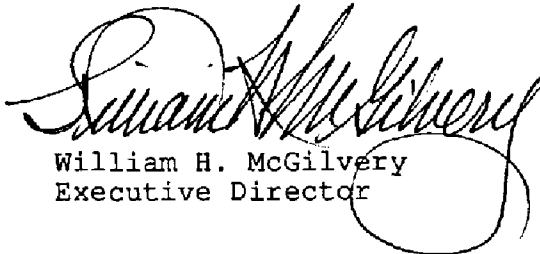
2. That Mustang Tours, Inc., shall file with the Commission, no later than Friday, November 19, 1993, an original and four copies of proof of publication from the newspaper that notice has been published as required in the preceding paragraph.

3. That Mustang Tours, Inc., shall file with the Commission, no later than Friday, October 29, 1993, an original and four copies of an amended proposed tariff containing rates only for service confined to the Metropolitan District.

4. That any person wanting to protest the application, in accordance with Commission Rule No. 13 and Regulation No. 54-04(a), or comment on the application, in accordance with Regulation No. 54-04(a), shall file such protest or comment at the office of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104, no later than Friday, November 19, 1993, and shall simultaneously serve a copy of such protest or comment on applicant's representative, Mrs. Roberta A. Baxley, Vice President, Mustang Tours, Inc., 3376 Crumpton South, Laurel, MD 20724.

5. That any person seeking a formal oral hearing on this matter, in accordance with Commission Regulation No. 54-04(b), shall request one no later than Friday, November 19, 1993, and shall simultaneously serve a copy of such request on applicant's representative, Mrs. Roberta A. Baxley, Vice President, Mustang Tours, Inc., 3376 Crumpton South, Laurel, MD 20724.

FOR THE COMMISSION:



William H. McGilvery
Executive Director

¹ In re ANA Hallo Tours (USA), Inc., No. AP-91-26, Order No. 3829 (Oct. 8, 1991).

² See In re Madison Limo. Serv., Inc., No. CP-90-01, Order No. 3496 (May 2, 1990) (application denied while formal complaint pending).